

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Application of:

File No. 800-2018-045533

**SAM JOSEPH BRANCATO**

Applicant.

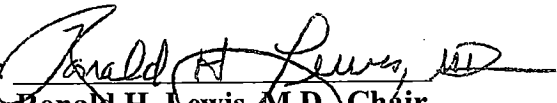
**DECISION AND ORDER**

The attached Stipulation for a Probationary License is hereby accepted and adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on **August 1, 2018**, although the probation will not commence until the applicant completes any remaining requirements for licensure and the license is issued.

**ORDERED:** July 25, 2018

MEDICAL BOARD OF CALIFORNIA

By:   
Ronald H. Lewis, M.D., Chair  
Panel A

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|   |   |                          |
|---|---|--------------------------|
| In the Matter of the Application of:    | ) | Case No. 800-2018-045533 |
|   | ) |                          |
| SAM JOSEPH BRANCATO                     | ) |                          |
|   | ) | STIPULATION FOR A        |
|   | ) | PROBATIONARY LICENSE     |
| For a Physician's and Surgeon's License | ) |                          |
| _____                                   | ) |                          |

- 1) Sam Joseph Brancato, applicant for a physician's and surgeon's license (hereinafter "applicant"), and Kimberly Kirchmeyer, Executive Director of the Medical Board of California (Board), hereby stipulate as follows:
- 2) Applicant is eligible for medical licensure in California upon meeting all licensure requirements.
- 3) On January 1, 2018, applicant submitted an application for a Physician's and Surgeon's License with the Board. Since, at least, October 2007, applicant has been under the care of treating professionals for a sexual addictive disorder, major depression disorder, and generalized anxiety disorder which may impair his ability to practice medicine safely.
- 4) Section 480(a) of the Business and Professions Code states the Board may deny a license on the grounds that the applicant has done any act that would be grounds for suspension or revocation of a license. Section 822 of the Business and Professions Code states that the Board may take action if the applicant's ability to practice medicine safely is impaired due to a mental illness. Section 2234 of the Business and Professions Code states that the Board may take action for unprofessional conduct.

The above supports a conclusion that grounds exist for denial pursuant to sections 480(a)(3)(A), 822, and 2234 of the Business and Professions Code.
- 5) Under Section 2221 of the Business and Professions Code, the Board may deny a license to an applicant because of unprofessional conduct. Alternatively, the Board has the discretionary authority to issue a probationary license with terms and conditions.
- 6) Applicant acknowledges he has a right to request a Statement of Issues and a hearing upon denial of license for cause. Applicant waives notice of hearing and judicial review in favor of this Stipulation for a Probationary License, which is subject to approval by the Board. If not approved, this Stipulation is null and void and may not be used for any purpose.
- 7) Applicant understands and agrees that counsel for the staff of the Board may communicate directly with the Board regarding this proposed Stipulation, without notice to or participation by applicant or his counsel. By signing the Stipulation, applicant

understands and agrees that he may not withdraw this agreement or seek to rescind the Stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this Stipulation, the offer of a Stipulation for a Probationary License shall be of no force or effect; except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

### ORDER

IT IS ORDERED THAT SAM JOSEPH BRANCATO, applicant, be issued a Physician's and Surgeon's License on a probationary basis, subject to the following terms and conditions:

1) Applicant is placed on probation for a period of three (3) years. Probation shall begin on the date the applicant is issued a probationary license.

2) Psychotherapy

Within 60 calendar days of the effective date of this Decision, applicant shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, applicant shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Applicant shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Applicant shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require applicant to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist.

If, prior to the completion of probation, applicant is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over applicant's license and the period of probation shall be extended until the Board determines that applicant is mentally fit to resume the practice of medicine without restrictions.

Applicant shall pay the cost of all psychotherapy and psychiatric evaluations.

3) Medical Treatment

Within 30 calendar days of the effective date of this Decision, and on a periodic basis thereafter as may be required by the Board or its designee, applicant shall submit to the Board or its designee for prior approval the name and qualifications of a California licensed

treating physician of applicant's choice. Upon approval of the treating physician, applicant shall within 15 calendar days undertake medical treatment and shall continue such treatment until further notice from the Board or its designee.

The treating physician shall consider any information provided by the Board or its designee or any other information the treating physician may deem pertinent prior to commencement of treatment. Applicant shall have the treating physician submit quarterly reports to the Board or its designee indicating whether or not the applicant is capable of practicing medicine safely. Applicant shall provide the Board or its designee with any and all medical records pertaining to treatment, the Board or its designee deems necessary.

If, prior to the completion of probation, applicant is found to be physically incapable of resuming the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over applicant's license and the period of probation shall be extended until the Board determines that applicant is physically capable of resuming the practice of medicine without restrictions. Applicant shall pay the cost of the medical evaluation(s) and treatment.

4) Worksite Monitor

Within thirty (30) calendar days of the effective date of this Decision, applicant shall submit to the Board or its designee for prior approval as a worksite monitor, the name and qualifications of one or more licensed physician and surgeon, other licensed health care professional if no physician and surgeon is available, or, as approved by the Board or its designee, a person in a position of authority who is capable of monitoring the applicant at work.

The worksite monitor shall not have a current or former financial, personal, or familial relationship with applicant, or any other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board or its designee. If it is impractical for anyone but applicant's employer to serve as the worksite monitor, this requirement may be waived by the Board or its designee, however, under no circumstances shall applicant's worksite monitor be an employee or supervisee of the licensee.

The worksite monitor shall have an active unrestricted license with no disciplinary action within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms and conditions of applicant's disciplinary order and agrees to monitor applicant as set forth by the Board or its designee.

Applicant shall pay all worksite monitoring costs.

The worksite monitor shall have face-to-face contact with applicant in the work environment on as frequent a basis as determined by the Board or its designee, but not less than once per week; interview other staff in the office regarding applicant's behavior, if requested by the Board or its designee; and review applicant's work attendance.

The worksite monitor shall verbally report any suspected sexual acting-out behavior(s) to the Board and applicant's employer or supervisor within one (1) business day of occurrence. If the sexual acting-out behavior(s) does not occur during the Board's normal

business hours, the verbal report shall be made to the Board or its designee within one (1) hour of the next business day. A written report that includes the date, time, and location of the sexual acting-out behavior(s); applicant's actions; and any other information deemed important by the worksite monitor shall be submitted to the Board or its designee within 48 hours of the occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the Board or its designee which shall include the following: (1) applicant's name and Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3) the worksite monitor's license number, if applicable; (4) the location or location(s) of the worksite; (5) the dates applicant had face-to-face contact with the worksite monitor; (6) the names of worksite staff interviewed, if applicable; (7) a report of applicant's work attendance; (8) any change in applicant's behavior and/or personal habits; and (9) any indicators that can lead to suspected sexual acting-out behavior(s) by applicant. The worksite monitor shall monitor and report on applicant's performance (punctuality, professional demeanor, record keeping etc.) in the workplace and not specifically applicant's illness or competency. This includes any behavioral difficulties, inappropriate behavior, questionable medical practice, or professional misconduct as well as any concerns with applicant's ability to practice medicine safely. Applicant shall complete any required consent forms and execute agreements with the approved worksite monitor and the Board, or its designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

If the worksite monitor resigns or is no longer available, applicant shall, within five (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within fifteen (15) calendar days. If applicant fails to obtain approval of a replacement monitor within sixty (60) calendar days of the resignation or unavailability of the monitor, applicant shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Applicant shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

#### 5) Solo Practice Prohibition

Applicant is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) applicant merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) applicant is the sole physician practitioner at that location.

If applicant fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, applicant shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The applicant shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the applicant's practice setting changes and the applicant is no longer practicing in a setting in compliance with this Decision, the applicant shall notify the Board or its designee within 5 calendar days of the practice setting change.

If applicant fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, applicant shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The applicant shall not resume practice until an appropriate practice setting is established.

6) Notification

Within seven (7) days of the effective date of this Decision, the applicant shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to applicant, at any other facility where applicant engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to applicant. Applicant shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7) Supervision of Physician Assistants and Advanced Practice Nurses

During probation, applicant is prohibited from supervising physician assistants and advanced practice nurses.

8) Obey All Laws

Applicant shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9) Quarterly Declarations

Applicant shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Applicant shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10) General Probation Requirements

Compliance with Probation Unit

Applicant shall comply with the Board's probation.

Address Changes

Applicant shall, at all times, keep the Board informed of applicant's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Applicant shall not engage in the practice of medicine in applicant's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed

facility.

**License Renewal**

Applicant shall maintain a current and renewed California physician's and surgeon's license.

**Travel or Residence Outside California**

Applicant shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event applicant should leave the State of California to reside or to practice applicant shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

**11) Interview with the Board or its Designee**

Applicant shall be available in person upon request for interviews either at applicant's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

**12) Non-practice While on Probation**

Applicant shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of applicant's return to practice. Non-practice is defined as any period of time applicant is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board.

If applicant resides in California and is considered to be in non-practice, applicant shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve applicant from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event applicant's period of non-practice while on probation exceeds 18 calendar months, applicant shall successfully complete the Federation of State Medical Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Applicant's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for an applicant residing outside of California, will relieve applicant

of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

13) Completion of Probation

Applicant shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, applicant's certificate shall be fully restored.

14) Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If applicant violates probation in any respect, the Board, after giving applicant notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against applicant during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

15) License Surrender

Following the effective date of this Decision, if applicant ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, applicant may request to surrender his license. The Board reserves the right to evaluate applicant's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances.

Upon formal acceptance of the surrender, applicant shall within 15 calendar days deliver applicant's wallet and wall certificate to the Board or its designee and applicant shall no longer practice medicine. Applicant will no longer be subject to the terms and conditions of probation. If applicant re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

16) Probation Monitoring Costs

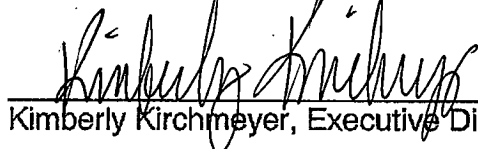
Applicant shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

Applicant agrees to comply with the terms and conditions of the above Order.

  
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Sam Joseph Brancato, Applicant

7/11/2018

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Kimberly Kirchmeyer, Executive Director

7/18/18  
\_\_\_\_\_  
Date